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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

Civ. S-02-686 DFL

Cr. S-99-0401 DFL

13 v.

O R D E R

14 BRANDY VEGA TELLEZ,

15 Defendant.
16 _____/

17 Defendant has filed a notice of appeal of this court's March
18 12, 2004 denial of his application for a writ of habeas corpus.
19 Before defendant can appeal this decision, a certificate of
20 appealability must issue. 28 U.S.C. § 2253(c); Fed.R.App.P.
21 22(b).

22 A certificate of appealability may issue under 28 U.S.C.
23 § 2253 "only if the applicant has made a substantial showing of
24 the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).
25 The court must either issue a certificate of appealability
26 indicating which issues satisfy the required showing or must


1 state the reasons why such a certificate should not issue.

2 Fed.R.App.P. 22(b).

3 For the reasons set forth in the March 12, 2004 order
4 denying defendant's motion under 28 U.S.C. § 2255, defendant has
5 not made a substantial showing of the denial of a constitutional
6 right. Accordingly, a certificate of appealability should not
7 issue in this action.

8 IT IS SO ORDERED.

9 Dated: 5/18/2006

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13 DAVID F. LEVI
14 United States District Judge
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